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Carter Claims Privilege in Probe of Leak

By David Wood

Washington Star Staff Writer

President Carter, invoking a claim of executive privilege, has ordered Deputy National Security Adviser David Aaron not to testify before a House subcommittee investigating the aide's alleged role in intelligence leaks.

The panel's chairman, Rep. Samuel Stratton, said yesterday the subcommittee would subpoena the White House aide.

During a brief public session yesterday of the Armed Services investigations subcommittee, Stratton announced that Aaron had been forbidden by Carter to testify.

Aaron sent a sworn, written statement denying allegations that he had been the source of leaks about the "Stealth" aircraft system. But the aide, yesterday's expected witness in the House hearings, did not appear.

Stratton, D-N.Y., asserted that the claim of executive privilege in this case was "unacceptable" because the privilege covers only communications between the chief executive and his advisers, not those between the advisers and outsiders.

Chiding the White House, Stratton observed that "Congress probably has a little more experience in judging exactly what is involved in invoking executive privilege than does the present occupant of the White House or his staff."

Stratton said that White House

Counsel Lloyd Cutler had advised him in a letter late Tuesday night that Carter had invoked executive privilege, and that Cutler had called him again yesterday morning to say that the Justice Department agreed with the decision.

"Here again," noted Stratton, an 11-term Democrat, "We are dealing with people who haven't been in Washington very long."

Following the subcommittee session Republican members were full of praise for Stratton for "standing up to the White House." But because of the imminent congressional recess, there is not expected to be any confrontation soon between Aaron and the panel.

The issue involves allegations brought before the investigations subcommittee two weeks ago by retired Adm. Elmo Zumwalt, in which the former chief of naval operations identified Aaron as the source of mid-August disclosures about the secret Stealth program.

Zumwalt, an informal adviser to Republican presidential candidate Ronald Reagan, cited as sources high officials in the White House and the Pentagon, but declined to reveal their identities.

In a sworn affidavit accompanying the Cutler letter, Aaron denied having any part in intelligence leaks or knowing anyone on the White House or National Security Council staff who did.

In Cutler's letter to Stratton, the White House lawyers called Zumwalt's allegations "the most suspect kind of hearsay," and said Aaron would testify only "if and when

your subcommittee has more credible evidence" of Aaron's involvement in intelligence leaks.

Cutler also offered to make Aaron available for a deposition, an offer Stratton rejected as being "not the same as testifying and being cross-examined."

Stratton said he would insist on a claim of executive privilege directly from Carter, rather than one relayed through Cutler. If Carter makes such an assertion, Stratton said, he would challenge it with a subpoena.

Subcommittee aides said no action probably will be taken until the House reconvenes Nov. 12 from its election recess. Even then, one predicted, there is "no way Aaron will ever come up here to talk."

Zumwalt's allegations were part of an increasingly bitter series of skirmishes on national security on the presidential campaign trail and across Capitol Hill — amid accusations and wild rumors about who is leaking what and for whose benefit.

The administration has angrily denied Republican charges that it has seriously weakened American defense capabilities, as well as accusations that Carter aides disclosed details of the Stealth program to counter such charges.

Carter and Reagan have accused each other of jeopardizing the nation's security by attempting to build political capital on intelligence leaks. Republicans and Democrats on the Armed Services committee and elsewhere have likewise accused each other of leaking defense secrets for political ends.